INVENTOR: Blanchard, Clarence E. S/N: 09/927,719

REMARKS

Claims 29-48 are pending in the present application. In the Office Action mailed April 1, 2003, the Examiner rejected claims 29-31, 43, and 44 under 35 U.S.C. §103(a) as being unpatentable over Davies (USP 2,676,559) in view of Hall (USP 5,273,467). Applicant appreciates the indication of allowability of claims 34-42 and 45-48 and the indication of allowable subject matter of claims 32 and 33.

In rejecting claims 29-31, 43 and 44 under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Hall, the Examiner states that:

> Davies discloses a boat with an outboard propulsion system mounted to the hull. The propulsion system comprises an engine (1), an exhaust housing (4), thrust bracket (5), propeller unit (column 7), and drive train (column 7). The exhaust housing is pivotally mounted to the hull, supports the engine, and has an internal exhaust gas passage. The thrust bracket comprises a flat plate that lies flat against the stern (see Figs. 1, 3, 10-12) and walls (136). The walls are parallel to each other and extend perpendicular to the flat plate. The walls (136) received the exhausted housing (4) in the space defined between them, and prevent lateral rotation of the exhaust housing.

Applicant respectfully disagrees with the Examiner's interpretation in at least two respects. In a first respect, the Examiner states that "the exhaust housing is pivotally mounted to the hull ..." Applicant does not necessarily disagree that the exhaust housing of Davies is pivotable in relation to the hull, however, Applicant respectfully disagrees that the exhaust housing, as shown in Davies, is mounted to the hull or that the exhaust housing is pivotally mounted thereto.

Claim 29 calls for, in part, an "exhaust housing pivotably mounted to said hull". While the exhaust housing of Davies is pivotable in relation to the hull, the claim requires that the exhaust housing be pivotally mounted to the hull. Such is not the case in Davies.

The exhaust housing of Davies is pivotally mounted to the forwardly directed bracket 131, not to the hull. Davies, referring to Fig. 3, discloses that "the passage 41 serves to conduct exhaust gases from the exhaust port 43 of the engine 1 to the upper end 39 of the driving-shaft housing 4 which, besides housing the driving-shaft, also serve as an exhaust pipe and cooling water discharge conduit for the engine." Col. 5 lns. 69-74. Davies also states that:

> The upper part of the attachment member 5 is (if desired, with the aid of a rubber bush) pivoted on a horizontal bolt 130 passing through the upper end of an upwardly and forwardly directed bracket 131 united at its lower part to the

Received from < > at 6/20/03 5:22:10 PM [Eastern Daylight Time]

> front portion of an internally cylindrical bearing sleeve (132) in which is journalled a cylindrical port 133 (see Figures. 3, 14 and 15 for example) of the driving-shaft housing 4, the upper and lower ends of the said sleeve being located between circumferential shoulders 134 and 135 at the ends of the said cylindrical part of the driving-shaft housing so as to be restrained by these shoulders against endwise movement with respect to such housing." Col. 9, ln. 73 through Col. 10, ln. 13.

As shown in Fig. 3 of Davies, exhaust passage (41) is secured to bracket (131) which is secured to attachment member (5) via pivot bolt (130). As such, it is not the exhaust housing that which is pivotally mounted to the hull, rather it is the bracket (131) which is pivotally mounted to attachment member (5) via pivot bolt (130). Bracket 131 is not part of the exhaust housing of Davies nor does it allow passage of any content therethrough, exhaust gas or cooling water.

Claim 29 calls for "an exhaust housing pivotally mounted to said hull and supporting said engine." As discussed above, it is not the exhaust housing of Davies which is pivotally mounted to the hull, it is an arm which is attached to the exhaust housing at one end and attached to the hull at a second end. Additionally, if the exhaust housing of Davies were to be mounted to the hull of the watercraft, even pivotally, such a construction would disable the steering of the engine. That is, the exhaust housing of Davies must be pivotable in relation to the upwardly extending bracket in order to effectuate steering of the watercraft. If the upperwardly extending bracket were to be removed and the exhaust housing pivotally secured to the attachment member via a pivot bolt, the exhaust housing would no longer be pivotable about an axis of driving shaft (3) and as such, would not steer. Therefore, the exhaust housing of Davies is clearly not pivotally mounted to the hull.

In a second respect, the Examiner further rejected claim 29 stating that "the thrust bracket comprises a flat plate that lies flat against the stern (see figures 1, 3, 10-12) and walls (136)." Applicant respectfully disagrees that the thrust bracket of Davies is either a flat plate, or lies against the stern.

Referring again to Fig. 3, Davies discloses that "the bridge piece 138 serves to bear the forward thrust of the driving-shaft housing when the propeller of the unit is in its rearwardly-directed forwardly-propelling position, such as shown in Figures 1 or 10 for example, but does not interfere with the free raising of the outboard motor unit into an up-tilted position such as that shown in Figure 12 so long as the propeller 2 is in the rearwardly-directed forwardly-propelling position." Col. 10 lns. 58-67. As such, bridge piece 138, which is disclosed as receiving the thrust from the outboard engine, does not comprise a sidewall arranged to receive the exhaust housing therein and prevent lateral rotation of the exhaust housing. Additionally, assuming

Received from < > at 6/20/03 5:22:10 PM [Eastern Daylight Time]

arguendo that the attachment member 5 of Davies is a thrust plate, a person of ordinary skill in the art would readily recognize that horns (136) while, in part, are adjacent exhaust passage 41, do not receive, or support the weight or pressure of, the exhaust housing therein. That is, a person of ordinary skill in the art would readily recognize that the horns are used to facilitate tilt of the outboard motor of Davies and are not walls of a thrust plate. As such, for the reasons addressed above, Applicant believes that which is called for in claim 29 is patentably distinct over Davies for multiple reasons. Therefore, Applicant respectfully requests allowance of claim 29 and those claims that depend therefrom.

Claim 43 has been amended to further define the present invention. Claim 43, in part, calls for a flat mounting plate that lies flat against said stern and a pair of side thrust walls wherein the side thrust walls are constructed to engage a pair of respective recesses of said outboard water jet propulsion system and are arranged to prevent lateral displacement of said outboard water jet propulsion system due to side thrust in either direction. The horns of the attachment member of Davies are adjacent to the outboard motor but do not engage respective recesses therein. Davies states that:

> At its lower end the body 127 of the attachment member 5 is provided with a pair of laterally spaced parallel rearwardly extending arcuate horns 136. Each having a longitudinal slot 136' whose centre of curvature lies on the axis of the pivot bolt 130. The horns 136 embraced between them the said driving-shaft housing 4 and are respectively secured, by locking screws 137 passing adjustably through the said slots 136', to the opposite ends of a substantially semi-cylindrical or segmental bridge piece 138 (see Figures. 1, 3, 14 to 16) lying around the lower front part of the cylindrical portion 133 of the driving-shaft housing 4, the front part of the bearing sleeve 132 being shorter than the rear part of this sleeve in order to accommodate the bridge piece 138 therebelow with this bridge piece forming, as it were, a separate but complementary portion of the sleeve. Col. 10, lns. 40-58.

As such, it is not the attachment member 5 or the horns 136 which receive exhaust housing 4; rather bridge thrust piece 138 receives exhaust housing 4. Additionally Davies does not disclose recesses in the outboard motor configured to receive the horns and thereby prevent lateral displacement. Additionally, a person of ordinary skill in the art would understand that it is not the horns that prevent lateral displacement of the motor relative thereto, but the combination of the screws which pass therethrough and into the housing, and the upwardly and forwardly directed bracket which prevent lateral displacement of the outboard motor of Davies. As such, Applicant

Received from < > at 6/20/03 5:22:10 PM [Eastern Daylight Time]

believes claim 43 is patentably distinct over the art of record and therefore requests notice of allowance of claim 43 and those claims that depend therefrom.

Therefore, in light of the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 29-48.

An Appointment of Associate Power of Attorney and Change of Correspondence address are also included herein so that future correspondence and communication regarding this matter are directed to the undersigned. Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

Timothy J. Ziolkowski
Registration No. 38,368
Direct Dial 262-376-5139
tjz@zpspatents.com

Dated: June 20, 2003
Attorney Docket No. **Old:** JT-3166-US
New: BMCA9159.228

P.O. ADDRESS:
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170

Received from < > at 6/20/03 5:22:10 PM [Eastern Daylight Time]